MT LEGISLATIVE HISTORY

Chapter 631 1985

Bill (H) 58 S_____ Original bill & hist. ___C

H. Committee on Local Government

Hearing Date(s) Jan 10 ✓C
Jan 12 ✓C
_____ ___C
_____ ___C

Date Out Jan 12 ✓C

S. Committee on Local Government

Hearing Date(s) Jan 26 ✓C
_____ ___C
_____ ___C
_____ ___C

Jan 26 ✓C

S. Comm. on Taxation
Feb 02
Feb 03

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report_____

Note: A Free Conference Committee was formed to address HB 58. Its minutes are Unavailable.

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor: Rep. Jerry Driscoll, District 92, stated that HB 58 would allow the county commissioners to forgive property taxes due on a business to facilitate the sale of the business after a public hearing, with certain restrictions. There is presently no provision to forgive such taxes. Special improvement districts would not be affected since they are assessments rather than taxes. The bill provides for one hearing for all taxes involved. Mr. Driscoll said there is one drafting problem with the notice section and he has prepared amendments. Exhibit 3.

List of Testifying Proponents and What Group They Represent:

Kay Foster, Billings Chamber of Commerce
Dennis Rehberg, House District 88
Don Ingels, Montana Chamber of Commerce
John Lawton, City of Billings
Tom Hopgood, Montana Association of Realtors
Bruce MacKenzie, D.A. Davidson & Co.
Alec Hansen, Montana League of Cities and Towns
Bill Verwolf, City of Helena
Chuck Stearns, City of Missoula
Gregg Groepper, Office of Public Instruction

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Kay Foster testified that the Billings Chamber has worked throughout the past year to develop some legislation that would be beneficial in the possible re-opening of packing plants in the Billings area. HB 58 represents a joint effort of their business community, Billings labor, representatives of the city, county and school districts. It would remove one of the initial impediments that investors face in reopening closed businesses. Exhibit 4.

Dennis Rehberg, House District 88, stated that he is in support of this bill because it would eliminate some encumbrances on property that prevent others trying to re-open the plants.

Don Ingels, Montana Chamber of Commerce, added their support for HB 58.

John Lawton, Assistant City Administrator, City of Billings, stated that the City Council supports this bill because of the numbers from Pierce Packing ($975,000). A lien from Economic Development Administration adds another $2.2 million. The packing facility has taxes due dating back to 1979. The question is now before Bankruptcy Court and no one is sure who will receive monies from their liens on the property. The EDA would like to auction the property with them receiving first place for funds, which would mean that the county would never realize much, if any, of their taxes due on the plant. He felt that the legislation might have benefited the plant in its attempt to re-open a few years and it may still be operating today had they been able to experience the benefits of this bill. He felt that the bill may prevent such loses in the future if it is used properly. It is another tool to keep the business that is already present in a community plus attract new businesses.

Tom Hopgood, Montana Association of Realtors, testified that every realtor is aware of good commercial property that cannot be sold because of the back taxes due on the property. The result is the property sits idle when it could be employing people and creating tax revenue for the various governmental entities. They feel that the bill is good for government, business and for realtors.

Bruce MacKenzie, General Counsel, Vice-President, D.A. Davidson & Co., stated that they were in favor of any bill that would provide municipalities with flexibility with respect to tax collections, especially in the area of tax collections and the sale of property. The one concern they have has to do with SID assessments as addressed by Rep. Driscoll. Section 11, subsection 5 of the bill on page 15 addresses this issue but the wording is not clear. As addressed by others, property with taxes do not sell because of the back taxes due on them. Taxes cannot be waived in many cases because the taxes due are pledged in payment of bonds sold by the community to D.A. Davidson's customers. Revenues are pledged by the city as well as covenanted within the bonds themselves. For the county to unilaterally waive those payments would be a detriment to the bondholders. So long as this bill does not affect the ability to collect and seek re-payment of SID assessments against those properties, they are in favor of the

bill. There is other legislation being proposed enabling counties and cities to sell a property with the first lien in place and move the property and get it back on the tax roll in an orderly fashion.

Alec Hansen, Montana League of Cities and Towns, stated that at their annual meeting in September, a resolution was unanimously passed in favor of the bill. The members recognize that this bill offers the prospect of re-opening some abandoned plants and putting people back to work and going forward with the job that is most important to Montana - rebuilding the economy. It is not just a Billings bill but will work for a lot of cities and towns in Montana. Butte is a fine example that plant closings, etc. is not necessarily the end of the line since Butte is again flourishing with the mines re-opening.

Bill Verwolf, City Manager, City of Helena, indicated the City's support for this bill.

Chuck Stearns, Finance Director, City of Missoula, expressed their support for this bill.

Gregg Groepper, Office of Public Instruction, stated that they have no quarrel with the concept of the bill but they are uncomfortable with the 6 mills and 45 mills provided for in state taxes. It has been a concern in the past with Sections 15-24-1401 and 15-24-1501 and local options taxes. The Tax Committee last session provided some incentives for local government to insure the fidelity of the 6 mills and 45 mills. They would like a mechanism that allows for those same types of incentives and want the language to reflect that.

Questions From Committee Members: Rep. Hansen asked Mr. Lawton if she understood correctly that Pierce Packing is trying to buy the plant again. Mr. Lawton explained that he was simply using their attempt to re-open several years ago as an example of how this bill might have helped them be more successful.

Rep. Wallin asked Mr. Lawton at what point the city takes over the property. Mr. Lawton explained that the county usually takes the property. Technically, it takes four years for the county to take the property but it can speed up that process and try to return the property to the tax rolls rather

than wait the 4 to 5 years and take their chances on payment at a tax sale.

Rep. Wallin asked if after 5 or 6 months their fortunes change and the original owners wanted to come back in business, are they able to take advantage of the tax suspension. Mr. Lawton said that under the provisions of the bill the business must be bought by completely new owners. If the old owners re-opened the business they would still be liable for the back taxes. Rep. Driscoll stated that, at the public hearing, if the county finds that it is not an arms length transaction or it appears that it is simply a re-structuring for the primary purpose of escaping the tax then the county cannot grant the waiver.

Rep. Wallin asked if at the end of three years what is the advantage of re-opening. Rep. Driscoll stated that it would provide jobs for the time that the plant was open. The new person would not get a windfall but be liable for the tax if they closed within three years and possibly lose the property for non-payment of taxes. The taxes would be reassessed with penalty and interest if they closed within three years.

Rep. Hoffman asked what governing body could take such action besides county commissioners and wanted to know what a "consolidated government" was. Rep. Driscoll stated that Butte-Silver Bow or Anaconda-Deer Lodge County.

Rep. Hansen asked Rep. Driscoll if the city or county pursue those back taxes against the old owners. Rep. Driscoll stated that the taxes are against the property, not the people. There is presently no way to pursue the owners other than taking the property and this bill does not provide anything to get those taxes from the old owners.

Rep. Brooke told Mr. MacKenzie that she did not understand whether the bill clearly addresses assessments. Mr. MacKenzie said that he believed that counsel should be sure that the wording be very clear and that he wanted it presented as testimony that it was only intended to affect specific tax sections within the bill itself and not for SID assessments.

Closing by Sponsor: Rep. Driscoll stated that he checked with the Legislative Counsel and it was felt that

SID's, bonded indebtedness and improvements are not taxes, so would not be affected. He did not want the State of Montana's bond rating affected. It would give some control to the community on the local level as to whether or not some properties could be sold and re-opened and get people back to work. It is a tool for local government to try to get some taxes generated from property that is sitting idle.

DISPOSITION OF HOUSE BILL 58

No action taken.

EXECUTIVE ACTION ON HOUSE BILL 22

Motion: Rep. Brooke moved that HB 22 DO PASS. It was seconded by Rep. Good.

Discussion: None

Recommendation and Vote: HB 22 recommended DO PASS unanimously.

ADJOURNMENT

Adjournment At: 3:45 p.m.

Paula G. Darko

PAULA DARKO, Chairman

PD/td

0811.min

LOCAL GOVERNMENT COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/10/89

NAME	PRESENT	ABSENT	EXCUSED
DARKO, PAULA - Chair	X		
McDONOUGH, MARY - Vice-Chair	X		
BROOKE, VIVIAN	X		
BROWN, DAVE	X		
BROWN, JAN	X		
HANSEN, STELLA JEAN	X		
JOHNSON, JOHN	X		
STICKNEY, JESSICA	X		
WYATT, DIANA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HOFFMAN, ROBERT	X		
NELSON, THOMAS	X		
REHBERG, DENNIS	X		
WALLIN, NORM	X		

CS-30

EXHIBIT 3
DATE 1/10/89
HB #58

Amendments to House Bill No. 58
Introduced Copy

Requested by Rep. Driscoll
For the Committee on Taxation

Prepared by Jim Lear
January 6, 1989

1. Page 15, line 2.
Following: line 1
Strike: "due"
Insert: "providing"
Following: "as"
Strike: "defined"
Insert: "set forth"
Following: "in"
Strike: "76-15-103"
Insert: "7-1-2121"

BILLINGS
CHAMBER OF COMMERCE®

January 10, 1989

TESTIMONY IS SUPPORT OF HB58

My name is Kay Foster. I appear on behalf of the Billings Chamber of Commerce in support of HB58.

The Billings Chamber has worked throughout the past year to develop legislation which would be beneficial in facilitating the possible reopening of two packing plants in the city. HB58 represents a joint effort of the business community, labor, and representatives of our local city, county and school district. It would remove one of the intitial impediments which any possible investor faces when assessing the feasibility of operating any Montana plant currently closed and burdened with mounting property taxes. We feel this legislation addresses the concerns of the local taxing jurisdictions while providing some incentive for a major employer to consider a Montana manufacturing location.

Respectfully submitted,

Kay Foster

EXHIBIT 4
DATE 1/10/89
HB #58

200 No. 34th St. • P.O. Box 2519 or 1155 • Billings, MT 59103 • (406) 245-4111 or 248-7979

VISITORS' REGISTER

Local Government COMMITTEE

BILL NO. 58 DATE 1/10/89

SPONSOR Driscoll

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
John Lawton	City of Billings	✓	
Chuck Stearns	City of Missoula	✓	
Tom Hopgood	Mont. Assoc. of Realtors	✓	
Don Ingels	Mt Chamber of Commerce	✓	
Tony Campbell	Intern MT Board Pub. Ed.		
Gwen Morris	MH Co.		
Bruce MacKenzie	D.A. Davidson & Co.		
Alec Hansen	Cities & Towns	✓	
Kay Foster	Billings Chamber	✓	
Bill Verwolf	City of Helena	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

three weeks before the actual bid opening. This bill would make the operation of bid openings and city government in general work more smoothly and efficiently.

Rep. Diana Wyatt, District 37, expressed her support for this bill. It shortens the notice requirement in bid opening. It would increase the number and quality of bidders, therefore, it has the potential to save the cities money and time. Great Falls is currently operating as if this bill were already law. Exhibit 2

Questions From Committee Members: None.

Closing by Sponsor: Rep. Hansen asked for the committee's support of this bill and stated that the City of Missoula is also operating as if it were already law.

DISPOSITION OF HOUSE BILL 85

Motion: Rep. Wallin recommended that HB 85 DO PASS. Rep. McDonough seconded.

Discussion: None.

Amendments and Votes: None.

Recommendation and Vote: The committee voted that HB 85 DO PASS unanimously. Rep. Good moved that HB 85 be placed on the Consent Calendar. Rep. J. Brown seconded.

DISPOSITION OF HOUSE BILL 58

Motion: Rep. Rehberg moved that HB 58 DO PASS. Rep. Jan Brown seconded.

Discussion: Lee Heiman passed out copies of proposed amendments. Rep. Wallin asked about the three year limit which requires that the new owners stay in business three years or the tax is reassessed against the property. Rep. Rehberg stated that the three year limit is an incentive to the new owners. The city or county is not any further behind than they would have been if there was not a new business there. Rep. Good remarked about the difficulty in getting back taxes out of closed businesses. Lee Heiman did not see any particular legal problem with the three year limit.

Rep. Gould commented that the three year limit seemed necessary so that the governing body could be at least attempting to get the property back on the tax roll. Rep. Johnson asked how many times the three year limit be used. Rep. Rehberg stated that it is hoped only once but it can be given on the same property more than once. Rep. Darko felt that the whole process of the bill should be looked at - that the waiver will not be granted without careful thought and a public hearing.

Rep. Hansen asked Rep. Rehberg what would prevent previous owners from buying back the business. Rep. Rehberg stated that the bill does not forgive the indebtedness of the taxes. It simply removes the tax for the new owners. The previous owners cannot be granted the waiver since it would not be an arms length transaction.

Amendments and Votes: Rep. Stickney moved that all three amendments prepared by Mr. Heiman be attached. Rep. Gould seconded the motion. The motion to amend CARRIED unanimously.

Discussion: Rep. Good asked Mr. Heiman if he was satisfied that the amendment would not impact the bond ratings. Lee said the amendment would set the problem to rest 100%.

Motion: Rep. Rehberg moved HB 58 DO PASS AS AMENDED. It was seconded by Rep. Wyatt. The motion CARRIED unanimously.

ADJOURNMENT

Adjournment At: 2:55 p.m.

Paula G. Darko

REP. PAULA DARKO, Chairman

PD/TD

1011.min

DAILY ROLL CALL

LOCAL GOVERNMENT COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date 1/12/89

NAME	PRESENT	ABSENT	EXCUSED
DARKO, PAULA - Chair	X		
McDONOUGH, MARY - Vice-Chair	X		
BROOKE, VIVIAN	X		
BROWN, DAVE			X
BROWN, JAN	X		
HANSEN, STELLA JEAN	X		
JOHNSON, JOHN	X		
STICKNEY, JESSICA	X		
WYATT, DIANA	X		
GOOD, SUSAN	X		
GOULD, BUDD	X		
GUTHRIE, BERT	X		
HOFFMAN, ROBERT	X		
NELSON, THOMAS	X		
REHBERG, DENNIS	X		
WALLIN, NORM	X		

CS-30

1/12/89

Rep. Parker:

Please note my proxy for Rep. Driscoll's bill #58 and you note me as you see fit on all amendments. Also note my proxy on all other bills in executive session as you see fit.

Dave Brown

STANDING COMMITTEE REPORT

January 12, 1989

Mr. Speaker: We, the committee on Local Government report that HOUSE BILL 58 (first reading copy -- white) do pass as amended.

Signed: _____
Paula Darko, Chairman

And, that such amendments read:

1. Page 15, line 2.
Strike: "due"
Insert: "providing"
Strike: "defined"
Insert: "set forth"
Strike: "76-15-103"
Insert: "7-1-2121"

2. Page 15, line 11.
Strike: "including"
Insert: "except: (a)"

3. Page 15, line 12.
Following: "20-25-423"
Insert: "; or
(b) assessments made against property for the payment of bonds issued pursuant to Title 7, chapter 12"

Questions From Committee Members: Senator Beck asked why the assessor needed these lists. Dan Harrington answered that the people pay on their taxes for the television services they receive. Senator Harding stated that in their county the assessor prepares that list and they aren't exactly certain who uses the translators and who doesn't, so this clarifies that. The way it is now, the assessor has to go find the users.

Closing by Sponsor: Dan Harrington closed.

DISPOSITION OF HOUSE BILL 29

Discussion: Chairman Harding asked Representative Harrington if he had anyone to carry this to the Senate floor. Senator Vaughn said she would carry this bill.

Amendments and Votes: None

Recommendation and Vote: Senator Beck MOVED that we CONCUR in HB 29. The VOTE was UNANIMOUS in favor of this bill.

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor: Jerry Driscoll from House District 92, Billings, stated that this bill refers to a business that has been closed down for at least 6 months. If another person wants to open that business the delinquent property taxes could be suspended, and if the new owner kept the business open for 3 years or longer, those old property taxes would be cancelled. On page 15 it states this bill does not apply to assessments made against property for the payment of bonds. The way this should work is the person interested in opening a defunct business, would go before the county commissioners, have a public hearing, and request suspension of the delinquent taxes. It is in the best interest of a community to suspend the taxes, get the business going and back paying taxes, payrolls, and so forth. The business has to be income producing and job stimulating in order to make this request. You cannot just buy it and hold it for speculation.

List of Testifying Proponents and What Group they Represent:

Kay Foster, Billings Chamber of Commerce

Jim Van Orsdale, May of Billings
Alec Hansen, Montana League of Cities and Towns
Gordon Morris, Executive Director, MACO
Tom Hopgood, Mont. Association of Realtors
Don Ingels, Mont. Chamber of Commerce
John Lawton, City of Billings
Nathan Lubergen, City of Billings

List of Testifying Opponents and What Group They Represent:

None

Testimony:

Kay Foster stated that the Chamber of Commerce in Billings is here to urge passage of HB 58. It has the endorsement of the Billings business community, labor, city and county governments and the school district. It's a measure that was arrived at through a community search process to encourage economic development of their area. This bill will provide an incentive for job creation. Although the bill was conceived with the closure of the 2 meat packing plants in Billings, they realize other communities have businesses closing. Not having to pay the back taxes up front certainly is an added incentive.

John Lawton, Assistant City Administrator of Billings, is also a member of the search conference steering committee, which is a committee made up of labor, business and government. Pierce Packing Company closed owing back taxes on that facility back to 1979. That plant has been sitting empty depreciating and deteriorating for 5 years. There is $2.2 million lien plus the $1 million in back taxes owing on this facility. In addition the county can take over a property for delinquent taxes but it takes 3 or 4 years. At present Pierce Packing is in bankruptcy and all their assets will be sold off. Probably the equipment will be sold separately from the real property and once you do that the chances of ever putting that business back together is non-existent. Had this legislation been in place 3 or 4 years ago someone might have tried to reopen it. This bill is designed to help these kinds of situations. We think there are adequate safe-guards built into it to protect the public and other taxpayers.

John Lawton mentioned Midland Packing and that tax problem has cleared up. But there are other businesses around the state that might be able to use this bill in the future. This is a tool for economic development.

Jim Van Orsdale stated that a new building could be built for less dollars than the amount delinquent taxes. In building the new building, the old building sits and becomes an eyesore.

Alec Hanson stated that at their last meeting the cities and towns adopted a resolution supporting this bill. We believe this bill will remove a major indemnity to the economic restoration to our communities.

Gordon Morris brought Section 11 to the committee's attention. From a local government's perspective this bill really does reflect a long term objective of MACO as it is a mechanism empowering county commissioners with local control in terms of making these sound management decisions that are determined to be in the best interests of the public that they serve. I recommend this bill be given your favorable consideration.

Tom Hopgood representing the Montana Association of Realtors stated that this bill encourages the sale of valuable commercial property. Without the option of tax forgiveness, this property would remain unsold and idle. Every realtor in every major town in Montana has run into situations where good pieces of commercial property is sitting vacant. We believe this is a bill that's good for the economic vitality of the state, government, and good for realtors. We ask you give this a do pass recommendation.

Don Ingles from the Montana Chamber of Commerce added his support to HB 58. He stated that business, government, and labor have sat down and worked this bill out. He hopes the committee will pass this bill.

Questions From Committee Members: Senator Crippen asked sponsor Driscoll about SIDs and G.O.Bonds. County commissioners cannot forgive SIDs or G.O.Bonds. On page 15 it states this does not apply to assessments made against property for the payment of bonds. This bill does not cover state wide mill levies? How do you define job stimulating? Mr. Driscoll stated that you must open the business and put somebody to work. The reason for those words is that somebody doesn't purchase a commercial property to hold for three years, get the taxes forgiven, and then sell it. There has to be something happening inside the property, people working, something going on. The local government hearing is the place where the city or county make certain the business is opened. Senator Beck asked

if a business has a lot of delinquent taxes, it shuts down for 6 months, he sells it to his kid. Mr. Driscoll stated page 14 Section 11, sub 211-16. If they find it is not an arms length transaction, or if the purchase otherwise appears to be a restructuring of ownership for the primary purpose of escaping payment of delinquent property taxes the governing body will deny the request. Senator Beck asked if there is a definition of arms length transaction. Yes, there is.

Senator Vaughn asked Gordon Morris what effect this would have on the tax balances for the county and cities to operate. What problems would they run into with cancelling all these delinquent taxes? He answered that from a cash perspective, if you cancel what has not been collected you are not affecting any cash flow. The more important aspect is that you get the business back on the paying tax rolls as a result of this mechanism. Then you can actually realize collection in the future. Schools will benefit, counties will benefit, as are the municipalities as well as the state of Montana. We are not losing anything. Senator Vaughn asked why this wasn't heard in the taxation committee rather than local government. Gordon Morris explained that in 1987 this bill was not put out of that committee, so it still is before you as a good bill. Senator Harding stated this would effect anticipated revenue, when they are figuring budgets. Gordon Morris stated that in figuring budgets they would come closer to 100% accuracy in terms of what was being anticipated and what was being received. Senator Beck asked if the next year the tax base had to pick up the short fall? Gordon Morris thought perhaps a small school district might come up short and have to register warrants where the taxes are uncollected so getting the taxes back might be a boon to them. From an overall county jurisdiction there aren't that many tax paying businesses that constitute a percentage of the total tax base that would make a significant difference.

Senator Harding asked the city clerk from Billings, Mr. Lubergen, how this would affect your tax base? To forgive the $1.1 million taxes? Not having received anything, receiving something will help considerably. When we put the budget together, we include 100% but we collect about 90%. A large business might throw us off a percent more. Mr. Driscoll stated that problem started in Billings in 1979. If they don't have the money by now, they never will get it. This gives local governments the ability to wipe a bad debt off the books so that you can begin to realize some revenue

from the property.

Senator Beck asked if county commissioners could negotiate and not necessarily write off all the taxes, just a certain portion. Mr. Driscoll answered that they could. Negotiation is not prohibited by the bill. He stated that the new company has to disclose their financial statement. After 3 years, if the plant closes down, whose liable for the taxes? The property is liable for all penalty and interest.

Closing by Sponsor: Representative Driscoll stated this has been a good hearing. Presently no one has any power to forgive any taxes, and in some cases the delinquent taxes are bad debts. Hopefully this will get a business going before it goes to bankruptcy court. There has to be a notice and a public hearing. The new owner can do it or they can say no.

DISPOSITION OF HOUSE BILL 58

Discussion: Senator Crippen stated that the state wide levies may be a problem. Senator Beck stated local governments don't have authority over state imposed taxes. Senator Hammond stated you could have 2 owners then taxes go against the property. The bill leaves a lot to their local government and all the other tax laws apply.

Amendments and Votes: None

Recommendation and Vote: Senator Hammond made a MOTION that we DO CONCUR in HB 58. The vote was UNANIMOUS

HEARING ON HOUSE BILL 62

Presentation and Opening Statement by Sponsor: Representative Marian Hanson, House District 100, Big Horn County stated that HB 62 was brought to my attention last fall because people in her area wanted to have an audit of their cemetery district. Cemetery associations have audits but cemetery districts do not and in their area there was no accountability. Because of the cost of an audit, they stipulated that cemeteries with expenditures of less than $10,000 would be exempt from audits. This bill will give commissioners the authority to audit cemetery districts and provides accountability.

List of Testifying Proponents and What Group they Represent:

LOCAL GOVERNMENT COMMITTEE

51th LEGISLATIVE SESSION -- 1989 Date 1-26-89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Ethel Harding	X		
Sen. R.J. "Dick" Pinsoneault	X		
Sen. Tom Beck	X		
Sen. Eleanor Vaughn	X		
Sen. H.W. "Swede" Hammond	X		
Sen. Mike Walker	X		
Sen. Gene Thayer	X		
Sen. Paul Boylan	X		
Sen. Bruce D. Crippen	X		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

January 26, 1989

MR. PRESIDENT:

We, your committee on Local Government, having had under consideration HB 58 (third reading copy -- blue), respectfully report that HB 58 be concurred in.

Sponsor: Driscoll (Walker)

BE CONCURRED IN

Signed: _____

Ethel M. Harding, Chairman

H. C. 1/26/89 2:45.

SCRHB058.126

DATE January 26, 1987

COMMITTEE ON Local Government

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Marvin Barber	Mt. assessors assoc	29	X	
Kay Foster	Billings Chamber	HB 58	✓	
Jim VanArsdale	City of Billings	HB 58	✓	
Gordon Morris	MACO	HB 58		
Tom Hopgood	Mont. Assoc. Realtors	HB 58	✓	
R.E. Lambert	Yellowstone Co. Pres. Assn	HB 29	✓	
Don Ingels	MT Chamber of Commerce	HB 58	✓	
John Lawton	City of Billings	HB 58	✓	
Matthew Tuberge	City of Billings	HB 58	✓	

HEARING ON HOUSE BILL 58

Presentation and Opening Statement by Sponsor:

Representative Driscoll, District 92, sponsor, said the bill allows county commissioners, following a public hearing, to forgive taxes on businesses that have been closed for six months. If, at the hearing, the commissioners determine the new corporation is separate and distinct from the old one, they can hold the old taxes in suspension. If the new business is kept open for three years, the taxes are forgiven. If not, the old taxes, with penalty and interest, are assessed against that property. The taxes are not being paid currently, so if they are forgiven, nothing is lost and a new business is contributing to the economy.

List of Testifying Proponents and What Group they Represent:

None

List of Testifying Opponents and What Group They Represent:

None

Testimony:

None

Questions From Committee Members:

Senator Mazurek said Senator Gage had expressed some concern about the six month provision as it is not uncommon in the oil business for things to shut down for six months.

Senator Crippen noted the bill specifies this bill is to be implemented at the local government's discretion. He felt the concern Senator Gage has would be addressed by the local government under that discretionary provision.

Senator Walker said the two basic concepts of the bill are to stimulate employment and to expand the tax base.

Closing by Sponsor:

Representative Driscoll said the bill is intended to stimulate the reopening of closed businesses and to get people back to work.

HEARING ON SENATE BILL 282

Presentation and Opening Statement by Sponsor:

Senator Halligan, District 29, sponsor, said the bill provides for a credit against Montana income taxes for amounts paid by an employer for dependent care assistance provided to or on behalf of an employee. Absenteeism caused by problems with day care availability and quality have had $3 billion impact nationwide and certainly some of that impact has been felt in Montana. He said he has introduced the bill as an economic development tool to enhance the productivity of Montana businesses. Senator Halligan said there about 50,000 children in day care in Montana on a daily basis which impacts over half the families in the state.

Senator Halligan stated there are only two other states who have recently implemented a system of day care credits. He called this legislation the "benefit package of the '90's". The bill applies to only licensed or registered day care programs which ties in the Department of Family Services. It provides a 50% credit with a $2500 cap. Businesses can contract for payments with providers, provide for employee benefits, or start their own day care within their business. The bill is not designed to reduce salaries or be a part of a wage concession plan. It is designed to be an enhancement. The benefits are not to be included in wages or gross income of the employees. The employer gets the deduction as well as the credit and the employee doesn't have to pay taxes on that amount. There is also a provision for a five year carryover of credit if it is not used.

List of Testifying Proponents and What Group They Represent:

Nancy Lien Griffin, Montana Women's Lobbyist Fund
Dan Walker, U.S. West Communications
Chris Deveny, League of Women Voters

Senator Crippen said there is a time value for money and people would perhaps opt for this method of payment because it would be beneficial in terms of their investments and money management. Conversely, he felt it could hurt the county on an income basis. He also felt there would have to be quite a spread between what the money could earn and what it would cost.

Mr. Connell replied the spread has to be adequate which is why he felt the New York Prime Rate plus 2% adjusted annually would be an acceptable and safe level. This would make doing business with the state more expensive than doing business with the bank, or at least comparable to it. The time value would be taken care of if there is an adequate interest rate.

Senator Crippen said he had been contacted by the Yellowstone County Treasurer who had real concerns about the time he would have to spend working out payment schedules with taxpayers who are delinquent.

Mr. Connell felt by freezing the delinquent taxes, establishing a 90 day period to apply for monthly payments, and establishing a standard formula, the process could be smoothly and efficiently implemented. He felt the County Treasurers just don't want to have to deal with anything new. Mr. Connell has volunteered to help develop the system in Yellowstone County which he felt could work across the state.

Closing by Sponsor:

Senator Hager closed by saying this bill could be a tool to help small businesses get back on their feet and urged the committee to support the bill.

EXECUTIVE SESSION

DISPOSITION OF HOUSE BILL 58

Discussion:

Senator Crippen MOVED HOUSE BILL 58 BE CONCURRED IN.

Senator Mazurek expressed some concern that Senator Gage be able to address the bill as that is the main reason the

bill was moved to this committee. He also felt there needed to be some clean up in the language re the county discretionary ability as it is not consistent throughout the bill.

Senator Crippen felt that the bill had been adequately reviewed in the legislative process and although anything can certainly be tightened up even more, the bill is in decent enough shape to pass and be implemented without any further problem.

Senator Brown felt the bill should be held for a day for Senator Gage to look at it.

Senator Crippen WITHDREW HIS MOTION.

DISPOSITION OF HOUSE BILL 283

Discussion:

Senator Crippen felt the Department of Revenue has a different philosophy about capital companies than does the legislature. He felt their position flies in the face of what the legislature has been trying to accomplish in the past and currently is doing in this bill. He felt this bill is intended to encourage and stimulate investment.

Amendments and Votes: None

Recommendation and Vote:

Senator Crippen moved SB 283 DO PASS. The motion CARRIED unanimously with Senators Harp and Gage absent.

DISPOSITION OF SENATE BILL 220

Discussion:

Jeff Martin reviewed the amendments as per Exhibit #4. He noted the 2 1/2 % discount had been inadvertently omitted and would have to be added to the amendments.

Senator Severson felt if the rate goes below 5% it no longer becomes an incentive.

TAXATION COMMITTEE

51ST LEGISLATIVE SESSION -- 1989 Date 2/2/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE			X
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP			X
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

because if they don't get more people paying their tax early, then they lose from people who are now paying them late.

Senator Harp's motion to table the bill FAILED on a roll call vote.

Senator Crippen's motion to amend the bill CARRIED unanimously.

Recommendation and Vote: Senator Crippen moved Senate Bill 220 DO PASS AS AMENDED. The motion CARRIED on a roll call vote (Exhibit 5).

EXECUTIVE ACTION ON HOUSE BILL 58

Discussion: Senator Gage explained his objection to the bill saying in his area there are properties with a considerable amount of net proceeds tax delinquent. The extent of the delinquencies in some cases, is higher than the properties are worth. He felt this bill just addresses commercial properties. There is a question as to whether the net proceeds tax is a tax on personal or real property. He noted Dave Boyer is checking into applying it to net proceeds on some mines, coal and some other things taxed in the same manner.

Senator Crippen asked if the bill should be broadened to specifically include those things.

Senator Gage answered it should be broadened if they are deemed not to be personal or real properties.

Senator Crippen pointed out the language on page 14, sub. 3, line 17. One of the criteria mentioned is that the property is used in a profit oriented employment stimulating business. That is a judgement call he said, but it is covered by the hearing provision in the bill.

Senator Norman said there is a fine line between personal and real property and it would be hard to have a hearing and make a judgement call without a definition.

Senator Crippen felt the intent of the bill is to include personal property according to the language on page 10, lines 5-7 where the exception is made regarding delinquent personal property taxes suspended or cancelled under the provisions of Section 11. He felt it was clear the bill intends to deal with class 4 real

property, but also personal property. He said a substantial amount of the cases involved are personal property taxes and if they are eliminated, the bill just won't work.

Senator Gage felt the bill was too narrowly defined and needs to be broadened to cover some of the other commercial establishments and problems in the state. It is really designed to address only one problem, the Pierce Packing Co., in Billings.

Senator Eck felt it would be irresponsible of the committee to make the decision that net and gross proceeds were either real or personal property taxes. She felt the bill passed the House specifically to address one problem. If the committee tried to expand the bill to cover oil wells, defunct mines, etc. it would be a major revision, which would even require another hearing.

Senator Norman felt if it is passed it needs a termination date.

Amendments and Votes: Senator Crippen moved to amend the bill on page 14 as per amendment #3 on Exhibit 6. The motion CARRIED unanimously.

Senator Crippen moved to add a termination date of December 31, 1993 in a new section 16 and the corresponding title amendments. The motion CARRIED unanimously.

Recommendation and Vote: Senator Crippen moved House Bill 58 BE CONCURRED IN AS AMENDED. The motion CARRIED with Senator Gage voting no.

EXECUTIVE ACTION ON HOUSE BILL 4

Discussion: None

Amendments and Votes: None

Recommendation and Vote: Senator Norman moved House Bill 4 BE CONCURRED IN. The motion CARRIED unanimously.

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2/3/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

SENATE COMMITTEE
EXHIBIT 6
DATE 2/7
BILL NO. HB 58

SENATE STANDING COMMITTEE REPORT

February 6, 1989

MR. PRESIDENT:

We, your committee on Taxation, having had under consideration HB 58 (third reading copy -- blue), respectfully report that HB 58 be amended and as so amended be concurred in:

Sponsor: Driscoll (Walker)

1. Title, line 11.
Following: "MCA;"
Strike: "AND"

2. Title, line 12.
Following: "APPLICABILITY DATE"
Insert: "; AND PROVIDING A TERMINATION DATE"

3. Page 14, line 16.
Following: "taxes"
Insert: "or if the governing body determines the cancellation is not in the best interest of the county"

4. Page 17.
Following: line 3
Insert: "NEW SECTION. Section 17. Termination date. [This act] terminates December 31, 1993."

AND AS AMENDED BE CONCURRED IN

Signed: Bob Brown
Bob Brown, Chairman

EXHIBIT 6
2/6/89
1:55 PM